



Attorney's Docket No.: 06128-266001

AF/3728

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant : Jimmy Tsen et al.  
Serial No. : 09/994,439  
Filed : November 26, 2001  
Title : SHOE

Art Unit : 3728  
Examiner : Marie D. Patterson

Mail Stop Appeal Brief - Patents  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

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REPLY BRIEF

Pursuant to 37 CFR 1.193(b)(1), Applicants respond to the new points raised in the Examiner's Answer as follows.

In response to Applicants' statement that there is no suggestion to combine the references, the Examiner asserts the following:

Giese clearly and explicitly teaches and provides the motivation to combine the disclosed shoe soles with any other shoe construction. Giese clearly states that the sole construction comprising an outsole and a contoured midsole "creates a combined flexibility of the shoe bottom" and "a shoe is formed providing cushioning where needed and stability where needed." (see column 2 lines 14-22) This clearly provides motivation to use the disclosed composite outsole/midsole when cushioning, flexibility, and stability are desired. The fact that Giese shows numerous embodiments, merely suggests that it would have been obvious to use any of the disclosed sole structures including the one shown in figures 78-82. One of ordinary skill desiring to increase cushioning, flexibility and stability in a shoe (such as Taber) would clearly look to references such as Giese which clearly teach structures which provide such benefits. (See, Examiner's Answer, p. 6, second full paragraph. Emphasis added.)

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